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**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ARIZONA**

ROMEO FILIP, a married man, BATTLE
 FOAM, LLC, an Arizona limited liability
 company, and OUTLAW MINIATURES,
 LLC, an Arizona limited liability company,

Plaintiffs,

vs.

NICOLAS HAYDEN and JANE DOE
 HAYDEN, husband and wife; DOE
 INDIVIDUALS OR ENTITIES 1-10,

Defendants.

Case No. 2:13-cv-01131-ROS

MOTION FOR RECONSIDERATION

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Defendant Nicholas Hayden (“Hayden” or the “Defendant”), through his undersigned counsel, moves this Court for reconsideration of its June 19, 2013 order remanding this action to Maricopa County Superior Court. Defendant’s motion is based on the following arguments of law, all other documents previously filed in this action, and any oral argument the Court may allow.

I. Introduction

On June 4, Hayden removed the instant action from Maricopa County Superior Court. Attached to Hayden's notice of removal was the state court's docket in the case, including the Complaint filed by Plaintiffs (ECF 1-1). Plaintiffs' complaint alleges that each and every one of the Plaintiffs are residents of Arizona, or are limited-liability companies organized under Arizona law and therefore residents of Arizona (ECF 1-1 ¶¶ 1-3). Plaintiffs' Complaint also alleged that Hayden was a resident of California (ECF 1-1 ¶ 4). In addition to these grounds, Plaintiffs' alleged damages surpassed the \$75,000 threshold for this Court to have diversity jurisdiction under 28 U.S.C. § 1332.

On June 19, this Court entered an order remanding the action to Maricopa County Superior Court (ECF 6). This Order was based on the erroneous statements by Defendant's counsel that Plaintiffs Battle Foam LLC and Outlaw Miniatures LLC were "citizens of California." However, throughout the notice of removal and Plaintiffs' complaint, it is clear that, despite this typographical error, Battle Foam LLC and Outlaw Miniatures LLC are, along with Plaintiff Filip, residents of Arizona. As such, this action is properly removed to this Court and the prior order (ECF 6) should be reconsidered and reversed.

II. Argument

Reconsideration of a prior court order requires: (1) a valid reason for revisiting the prior order; and (2) facts or law of a strongly convincing nature so as to warrant reversal of the prior decision. *Mutual Life Ins. Co. of N.Y. v. Pointe Tapatio Resort Props. No. 1 Ltd. Partnership*, 206 F.R.D. 495, 497 (D. Ariz. 2002); *see Frasure v. U.S.*, 256 F. Supp. 2d 1180, 1183 (D. Nev. 2005). Even when a Court has engaged in careful analysis of a decided issue, reconsideration may be proper based on the significance of the issue being contested. *ACLU v. Dunham*, 112 F. Supp. 2d 927, 928 (D. Ariz. 2000).

The prior order did not consider the allegations of the Complaint and even the statements of fact and law made in Defendant's Notice of Removal in reaching its conclusion. Plaintiffs' Complaint unambiguously alleged that each and every one of the Plaintiffs were residents of Arizona, and that Defendant was a resident of California (ECF

1 1-1 ¶¶ 1-4). As explained in Defendant's Notice of Removal, the identities of the Doe
2 defendants are disregarded in analyzing diversity citizenship for removal (ECF 1 ¶ 5).

3 Defendant's Notice of Removal also acknowledges and states that all Plaintiffs are
4 residents of Arizona (ECF 1 ¶¶ 6-8). Erroneously, Defendant alleged that Plaintiffs Battle
5 Foam LLC and Outlaw Miniatures LLC are citizens of California. This is factually
6 incorrect, contradicted by Plaintiffs' Complaint, and even belied by the statements of law
7 in Defendant's Notice of Removal. Within the Notice of Removal and Complaint,
8 Plaintiffs Battle Foam LLC and Outlaw Miniatures LLC are identified as Arizona limited
9 liability companies, which are citizens of the state in which they are incorporated under
10 U.S.C. § 1332(c)(1) – making them citizens of Arizona despite Defendant's erroneous
11 statement that they are citizens of California. Removing any doubt as to this issue, Plaintiff
12 Battle Foam has represented to the California Superior Court for Contra Costa County that:

13 Battle Foam is an Arizona limited liability company **with its principal place**
14 **of business in Gilbert, Arizona.** (Exhibit A at 4)

15 Under 28 U.S.C. § 1332(c)(1), Plaintiff Battle Foam LLC is, like Outlaw Miniatures and
16 Filip, a citizen of Arizona. Thus, there is complete diversity of citizenship between the
17 parties.

18 The Court's June 19, 2013 Order (ECF 6) makes no mention of the Complaint (ECF
19 1-1) or other elements of Defendant's Notice of Removal (ECF 1 ¶¶ 6-8) showing that
20 despite its typographical error, all Plaintiffs are, in fact, *citizens* of Arizona. Consideration
21 of these contents would not have led the Court to remand the case to Maricopa County
22 Superior Court; at most, the Court would have sought clarification of the discrepancy from
23 Defendant's counsel. Notwithstanding the typographical error of substituting "California"
24 for "Arizona" in paragraphs 7 and 8 of Defendant's Notice of Removal, this Court has
25 jurisdiction over this case, and is the forum where Hayden is entitled to have his claims
26 heard.

27 In the alternative, Defendant requests leave to file an amended Notice of Removal to
28 correct the typographical error underlying the Court's order for remand. As this is a purely

1 formalistic error, there would be no change to the substance of the underlying Notice of
2 Removal, and no party would be prejudiced by such a correction.

3 **III. Conclusion**

4 Upon analysis of the substance of the Defendant's Notice of Removal and the
5 supporting docket from Maricopa County Superior Court, the Court should reconsider its
6 prior order remanding the case to state court (ECF 6) and retain jurisdiction of the removed
7 matter. Defendant's counsel respectfully requests leave of the Court to correct its
8 typographical error in its Notice of Removal so that its form may fully align with the
9 substance of the Notice (ECF 1) and underlying dispute (ECF 1-1), to reflect that all
10 Plaintiffs are, in fact, citizens of Arizona (see Exhibit A).

11
12 Dated: June 19, 2013

Respectfully submitted,

13
14 /s/ Marc J. Randazza

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Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished, on this 19th day of June, via U.S. Mail to Plaintiffs' Counsel, May, Potenza, Baran & Gillespie, P.C., Chase Tower, Suite 2200, 201 N. Central Avenue, Phoenix, AZ 85004-06080.

A handwritten signature in black ink, appearing to read "Randazza", is written over a horizontal line.

An Employee of Randazza Legal Group